

Board of Dentistry

Minutes

Date: January 26-28, 2005

Location: Cumberland Room
Ground Floor, Cordell Hull Building
425 Fifth Avenue, North
Nashville, TN 37247

Members Present: Marlene S. Fullilove, RDH, Vice-President
Harold L. Fitts, DDS, Secretary/Treasury
Beth Casey, RDH
Jeffrey M. Clark, DDS
Bobby Cook, DDS
John M. Douglass, Jr., DDS
Eben A. DeArmond, Jr., DDS
Betty Gail Fox, RDA
William Nally, DMD
Mike Tabor, DDS

Staff Present: Paul David, Board Director
Dea Smith, Board Manager
Carla McCord, Board Administrator
Robbie Bell, Director, Health Related Boards
Jerry Kosten, Regulations Manager
Bob Kramer, Advisory Attorney
Laurie Doty, Associate General Counsel
Tamara Qureshi, Assistant General Counsel
Andrei Lee, Assistant General Counsel

Administrative

Procedures Staff: Tom Stovell, Administrative Law Judge
Elizabeth Miller, Court Reporter

January 26, 2005

The Board's Vice-President, Marlene S. Fullilove, determined a sufficient number of Board members were in attendance to constitute a quorum. The quorum was determined by the presence of Ms. Fullilove, Dr. Fitts, Ms. Casey, Dr. Clark, Dr. Cook, Dr. Douglass, Dr. DeArmond, Betty Fox, Dr. Nally and Dr. Tabor. Mark Wildasin, Consumer Board Member, was not present. Therefore, the meeting of the Tennessee Board of Dentistry was called to order at 9:08 AM. Ms. Fullilove welcomed Tennessee Technology class from Murfreesboro.

Conflict of Interest Policy

Ms. Fullilove requested the Board members review the Conflict of Interest Policy which was included in their notebooks.

Approval of Minutes

After review, a motion was made by Dr. Fitts and seconded by Dr. Nally to approve the minutes from the September 22-24, 2004, and October 22, 2004, Board meetings. All present voted in the affirmative to approve the minutes.

Report to the Board

Deji A. Ogundiya, DDS

Frank Scanlon represented the Respondent regarding the status of criminal conviction of three felony counts sexual battery against a patient. At the time of the disciplinary action, January 22, 2003, the Board's order subsequently amended on September 16, 2004, (a) placed Dr. Ogundiya on probation for five years, (b) required him to make an annual report to the Board regarding the appeal of his criminal conviction (c) provide the Board proof that he place the warning sign in his office as required by the terms of his criminal court probation, (d) pay a civil penalty of \$3,000 representing \$1,000 for each count of the criminal conviction and (e) pay costs.

Respondent stills needs to pay the Board a \$3,000 civil penalty and the cost of the action.

Mr. Scanlon has advised Dr. Ogundiya not to pay civil penalties and cost of the action until the appeal matters are resolved.

Contested Case Hearings

Milton McIlwain, DDS

Tom Stovell introduced himself as assigned by the Secretary of State to serve as the Administrative Judge in this hearing and asked the Board to identify themselves for the record. Laurie Doty, Assistant General Counsel with the Department of Health is representing the State. Dr. McIlwain is present and not represented by counsel and understands he has right to counsel but wishes to proceed.

Notice of Charges and Memorandum for Assessment of Civil Penalties filed on August 8, 2003, and continued on a number of occasions. Ms. Doty distributed Notice of Charges for unprofessional, dishonorable and unethical conduct, violation of the statutes, guilty of fraud or deceit in obtaining admission to practice, conviction of a felony, disciplinary action by another state (Florida) and failure to report on action and conviction on practitioner profile within thirty (30) days and Memorandum to Board members for review.

After discussion by Board members a motion was made by Dr. Douglass and seconded by Ms. Fox to revoke license for a period of not less than one year and only charge cost of proceedings to Respondent with no civil penalties be assessed and until fine has been paid not be eligible to reapply for licensure. All members present with the exception of Dr. Cook and Dr. Tabor voted in the affirmative.

Report to the Board

Gertrude Lowe

The Respondent appeared with attorney Stan Harris to report on the progress toward the sale or closing of the office where dental services and operations were performed without a dental license. A motion to eliminate civil penalties upon receipt of letter with terms of sale be presented at May 12, 2005, meeting and new order be issued upon receipt was made by Dr. Fitts and seconded by Dr. Nally. All members present voted in the affirmative.

Consent Order

Louis Bogard, DDS

Unprofessional conduct, violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate, any provision of the statutes, conducting the practice of dentistry so as to permit directly or indirectly an unlicensed person to perform services or work which under the provisions of this chapter can be done legally only by persons licenses to practice dentistry or dental hygiene or as a registered dental assistant, professional connection or association with any person, firm or corporation in any manner in an effort to avoid and circumvent the provisions of the statutes or lending one's name to another for the illegal practice of dentistry by such person. Respondent was reprimanded and assessed civil penalties in the amount of \$52,000. This penalty was stayed by the Board until the May 12, 2005, meeting at which the Respondent must appear and report as to his relationship with the dental office. If the Respondent submits proof that he is no longer involved with its operations, the civil penalties assessed will be cancelled.

Dr. Nally made motion and Dr. Fitts seconded upon receipt of all affidavit to comply with terms of consent order. All members present voted in the affirmative.

Rules - Criminal Background Checks

Jerry Kosten reported eight boards were audited last year by the Comptroller's Office and found we weren't doing criminal background checks on applicants in the manner that is done in the Department of Corrections, Department of Education, Department of Social Services, and Department of Children Services for foster parents. We'll put the procedure and the process on the board's web page. Dr. Kenneth Robinson, Commissioner for the Department of Health is asking each Health Related Board consider authorizing a rulemaking hearing regarding mandatory criminal background checks for all new applicants.

After discussing procedure and costs a motion was made by Dr. DeArmond and seconded by Dr. Nally to take mandatory criminal background checks for all new applicants to rulemaking hearing. All members present voted in affirmative.

Applicant Interviews

Jodice R. Lee-Belisle, DDS – Dr. Belisle did not indicate disciplinary from Illinois on her application for licensure. Verification from Illinois was received with a consent order from 1993. When asked why Dr. Belisle had marked no on disciplinary question of application, she explained that she had forgotten about it once it had been resolved. After the Board asked why she was applying for licensure in Tennessee and where she would be practicing, Dr. Clark made a motion and was seconded by Dr. Nally to approve Dr. Belisle for licensure. All members present voted in the affirmative.

Carla L. Brooks, RDH – SRTA scores more than five years and Georgia Board order. Ms. Brooks told the Board where she would be working and explained the Georgia Board order regarding CEs. Dr. Nally made a motion and was seconded by Dr. Clark to approve Ms. Brooks for licensure. All members present voted in the affirmative.

Sharri Maynard, RDH – NERB and WREB scores more than five years old. The Board asked Ms. Maynard her reason for licensure in Tennessee and where she thought she might practice. Dr. Clark made motion and Dr. Tabor seconded to approve application for licensure. All members present voted in the affirmative.

Jennifer C. McIlvoy, RDH – NERB scores more than five years old. The Board asked Ms. McIlvoy where she would be relocating and the reason for her move. Dr. Cook moved and Dr. Fitts seconded to approve Ms. McIlvoy for licensure. All members present voted in the affirmative.

Harry Papadopoulos, DDS – NERB scores more than five years old. The Board asked Dr. Papadopoulos his reason for move. Dr. Armond moved and Dr. Clark seconded motion to approve application for licensure. All members present voted in the affirmative.

Abha Pandey, DDS – NERB scores more than five years and omitted exam failure. The Board asked Dr. Pandey about omission of exam failure explanation on application and where she would be practicing in Tennessee. Dr. Clark moved and Dr. DeArmond seconded motion to approve application for licensure. All members present voted in the affirmative.

Cindy V. Roark, DMD – NERB scores more than five years old. The Board asked Dr. Roark her reason for applying for licensure in Tennessee. Dr. DeArmond moved and Dr. Nally seconded motion to approve application for licensure. All members present voted in the affirmative.

Richard L. Smith, DDS – Dr. Smith had disciplinary issues from past and present accusations. The Board asked Dr. Smith why he was applying for licensure in Tennessee. Dr. Smith plans to participate in three to four class sessions per year teaching. Dr. DeArmond moved and Dr. Nally seconded motion to approve application for Limited Educational License pending receipt letter requesting change of application and necessary documentation required for a Limited Educational License application. All members present voted in the affirmative.

Alabama Exam Dental Exam

Moved by Dr. DeArmond and seconded by Dr. Nally to accept the Alabama Exam as an equal exam to the Southern Regional Testing Agency Exam. All members present voted in the affirmative.

Jurisprudence

Discussion regarding knowledge of Tennessee laws governing dentists and keeping abreast with current rules and policy is a concern of Board members as applicants from other states are now being accepted.

Registered Dental Assistants Exam Survey

Ms. Smith reported on DANB report for the passing percentages. From May 2003 to September 15, 2004, for chair side there was a passing rate of 45%. For radiology there was a passing rate of 59%. The first nine months of 2004 DANB certification exam, not our exam, there was a passing rate of 80% and 79%. Cumulative passing percentage since we changed the exam 9/15/04 through 1/11/05 chair side is 63% and radiology is 68%. So the passing rates have gone up since the exam change.

Discussion by the Board regarding obtaining statistically what area scores are coming from, how instructors network, online courses available and what steps can be taken to help ensure better outcomes.

Dr. DeArmond reported talking with Tom Flanagan from Chattanooga who is in process of drawing up some resolutions to present to the Tennessee Dental Association regarding alternative paths of licensure.

Office of General Counsel Report

Mr. Kraemer directed the Board to the report provided in the Board member's material. Disciplinary Actions, Order Modifications became effective November 10, 2004. Radiology definition will become effective March 13, 2005, and remaining rules are all in the Attorney General's Office except for those which will go to rulemaking hearing February 23, 2005, Definition of Oral

Prophylaxis, Renewal fees for pro bono licenses, Licensure process catch line, Specialty certification, Examination re-testing, Practice requirements for Free Health Clinics.

Currently the Office of General Counsel has one hundred and five (105) open cases against dentists, dental hygienists or dental assistants being processed for disciplinary action before the Board, (minus the three you just handled today).

Concerned Dental Professionals Committee

Dr. Goodrich went over the Quarterly Report for the Concerned Dental Professionals Committee. As of October through December the three people that we had in the process of being evaluated, one is still in the process of being evaluated, one is completed and in treatment, and the other is discussing therapy the evaluators have prescribed for them. One relapse during the quarter of a person you had recommended who went back for re-evaluation and further treatment and is back in good graces. I notified the Disciplinary Coordinator regarding this person who is on probation.

Progress is being made at the University of Tennessee by getting a course in chemical dependency taught. Dr. Mark Anderson who went to Utah with us last year went back to the University of Tennessee and talked to the new dean and some other people about setting up program within the curriculum.

Treatment of Minors when the Parent or Guardian is not present in the Dental Office

Discussion regarding minors being treated and parents are not on the premises. No specific age that parents have to be on the premises. Each doctor establishes office policy in their office within the guidelines of dentistry and uses their professional judgment.

Mr. Kraemer reminded the Board that there are certain ramifications to health care providers treating children under the age of majority (18) without the parent's consent, they do not have to be there on the premises.

Correspondence

Ms. Bell asked the Board to review materials behind Tab 10: Development, Administration, Scoring, and Reporting of Credentialing Examinations, correspondence regarding American Association of Dental Examiners Committee developing a national uniform examination, and Actions of the 2004 ADA House of Delegates on issues related to dental education and licensure. Board members were to notify Ms. Smith by next week of interest in attending the AAED meeting to be held in March. Also, any comments regarding proposed changes to ADA Policy Statement: The use of conscious sedation, deep sedation and general anesthesia in dentistry.

Bureau of Health Licensure and Regulation

Ms. Eads reported notices of professional privilege tax delinquency have been sent out and failure to pay the professional privilege tax constitutes grounds for revocation of license. Health Related Boards and the Bureau are scheduled to move at the end of the year. We are working with a vendor to develop a new computer program licensing system to replace the currently used regulatory board system.

Ratifications

Dr. Clark moved to accept names submitted for newly licensed dentists and Dr. Nally seconded. All members present voted in the affirmative.

Dr. DeArmond moved to accept request for waiver of CPR requirement for designated period for Dr. Michael A. Smith and Dr. Fitts seconded motion. All members present voted in the affirmative.

Dr. Cook moved to accept exemption for licensure under Cayce Dental Program, a non-profit organization, for Archie Bertrand and Ms. Casey seconded. All members present voted in the affirmative.

Dr. Clark moved to accept names submitted for newly licensed dental hygienists license and Dr. Fitts seconded motion. All members present voted in the affirmative.

Dr. Clark moved to accept waiver of requirements for continuing competency exam for reactivation of Lori Wilkins dental hygienist license and Dr. Nally seconded. All members present voted in the affirmative.

Dr. DeArmond moved to accept names submitted for newly licensed dental assistants and Dr. Clark seconded. All members present voted in the affirmative.

Dr. Clark moved to accept the list of Continuing Education Courses submitted for approval and Dr. Nally seconded. All members present voted in the affirmative.

ADLEC Meeting

Ms. Casey reported that the Southern Deans and Dental Examiners met on Friday, Saturday, and Sunday, and then the ADLEC Committee piggybacked their conference on Thursday and Friday prior to Southern Dean's Conference held in New Orleans, LA, January 13-16, 2005. Mary Ann Burch of SRTA invited her to attend the Hygiene Subcommittee Meeting for the National Clinical and Dental Hygiene Licensure Exam. Thursday was dedicated to exam development and Friday they had general assembly and presented articles of incorporation and bylaws. There was no agenda provided, all reports given were verbally. There is no representative from Tennessee on the ADLEC Committee.

Ms. Casey reported there is a Consensus Committee meeting February 11, 2005; Wayne Looney will be representing Southern Regional at that meeting. At which time ADA is insisting that all the parties have an opportunity to sit down and discuss whatever.

There was discussion regarding attendance at the American Association Dental Examiners meeting. Dr. DeArmond made a motion to have a representative from the Board at any meeting regarding the National Exam and Dr. Fitts seconded motion. All members present voted in the affirmative.

Mr. Kraemer stated for information purposes when you're dealing with these it's my understanding this new exam is going to be a national exam not one of the regional testing agency exams. You're going to need a statute change for it to be applicable in Tennessee, not just a rule change. Your statute only gives you two options, you have to take the National Board but it can be either the state exam or one of the regional testing exams.

Dr. DeArmond stated the way it's referred to in an ADA resolution is a National Clinical Licensing Examination and then the Consensus Committee is the one that was formed through this resolution in Orlando and it unequivocally says that it would be premature at this time for the house to direct the ADA to unilaterally develop a common national clinical examination. Then the president appointed this Consensus Committee that Howard Jones is chairing and I think there are a couple of representatives from the Board of Trustees.

Dr. Nally made motion to pursue legislation to add the words for National Clinical Licensing Examination to the statute and Dr. Fitts seconded motion. All members present voted by roll call in the affirmative with the exception of Beth Casey.

A motion was made to recess the meeting at 4:12 PM until Thursday morning, at 9:00 AM.

January 27, 2005

The Board's Vice-President, Marlene S. Fullilove, determined a sufficient number of Board members were in attendance to constitute a quorum. The quorum was determined by the presence of Ms. Fullilove, Dr. Fitts, Ms. Casey, Dr. Clark, Dr. Cook, Dr. Douglass, Dr. DeArmond, Betty Fox, and Dr. Nally. Dr. Tabor arrived 9:25. Mark Wildasin, Consumer Board Member, was not present. Therefore, the meeting of the Tennessee Board of Dentistry was called to order at 9:03 AM.

Agreed Orders

Kurt Randall Childress, DMD – Disciplinary action in another state (Kentucky) and failure to report action on practitioner profile within thirty (30) days after a reportable action. Respondent was reprimanded and assessed a civil penalty in the amount of \$500 and ordered to pay costs. Ms. Casey moved and Dr. Clark seconded to accept order as written. All members present voted in the affirmative.

Champ Clark, DDS – Unprofessional conduct, a pattern of continued or repeated malpractice in the course of professional practice, permitting directly or indirectly an unlicensed person to perform services or work which under the provisions of the statute can be done illegally only by persons licensed to practice dentistry or dental hygiene or as a registered dental assistant. Dr. Cook moved and Dr. Douglass seconded for respondent to surrender his license, agreed to never reapply and ordered to pay costs. All members present voted in the affirmative.

Letters of Reprimand

Sharon Shettlesworth, RDA – Dr. DeArmond moved Dr. Fitts seconded to reject letter of reprimand as written. All members present voted in the affirmative.

Sarah Elaine Buckner, RDA – Unprofessional conduct for practicing ten years on an expired license. Ms. Casey moved and Dr. Douglass seconded for respondent to be reprimanded and ordered to pay a civil penalty in the amount of \$1,000. All members present with the exception of Betty Fox voted in the affirmative.

Pattie McCulley, RDH - Dr. Clark moved and Ms. Casey seconded to reject letter of reprimand as written. All members present voted in the affirmative.

James E. Hatfield, DMD – Unprofessional conduct and engaging in the practice of dentistry when mentally or physically unable to safely do so. Dr. Clark made motion to accept reprimand as written and Ms. Casey seconded Respondent be placed on probation for one year, must submit to a physical examination by a physician designated by the Tennessee Department of Health, Office of Health Related Boards within thirty (30) days, cause the designated physician to submit a report to the Board of Dentistry and Respondent shall comply with all recommendations and directions in physician's report, prepare a written protocol for the management of his condition and submit a copy of protocol to

the Board of Dentistry within thirty (30) days, provide copies of protocol to all staff in his office and hold in-service training with all staff regarding the protocol and submit a roster of attendance to the Board of Dentistry. All members with the exception of Dr. Cook voted in the affirmative.

Agreed Orders (continued)

James L. Fortner, DDS – Dr. DeArmond moved to reject order as written and Ms. Fox seconded. All members voted in the affirmative.

Diane M. Hamilton, RDH – Unprofessional conduct and violation of an order of the Board. Respondent's license was surrendered and may not make a new application for licensure for at least three full years, must appear before Board if reappplies and present evidence of advocacy of the Concerned Dental Professional Committee. Ms. Casey moved to accept order as written and Dr. Tabor seconded. All members voted in the affirmative.

Julia A. Johnson, DA – Unprofessional conduct, violation of provision of the statutes and being guilty of fraud or deceit in the practice of as a registered dental assistant. Respondent's license was surrendered. If reappplies in the future, must comply with the requirement for licensure in effect at the time of reapplication and must pay costs. Ms. Casey moved to accept order as written and Dr. Tabor seconded. All members voted in the affirmative.

Consent Orders

William P. Edgar, DDS – Disciplinary action in another state (Mississippi), habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants. . .in such a manner as to adversely affect his ability to practice dentistry, conviction of a felony, conviction of any offense under state or federal drug laws or conviction of any offense involving moral turpitude, and statements, assertions or answers which were untrue on renewal application. Respondent's license was suspended for five years, must appear before Board to reinstate his license, and present evidence to the Board that his Mississippi license to practice dentistry is unencumbered and in good standing. Dr. Douglass made motion to accept order as written and Dr. Clark seconded. All members voted in the affirmative.

Jessica M. Wallace, DA – Unprofessional conduct and violation of the statutes for unlicensed practice. Respondent was reprimanded and ordered to pay a civil penalty in the amount of \$300 and costs. Dr. Cook moved to accept order as written and Dr. Fitts seconded. All members voted in the affirmative.

Cindy Watkins, DA – Unprofessional conduct, violation of the statutes, failure to renew and practicing for five years on an expired license. Respondent was reprimanded and assessed a civil penalty in the amount of \$450 and ordered to pay costs. Dr. DeArmond moved to accept order as written and Dr. Clark seconded. All members voted in the affirmative.

Letters of Reprimand

Frank W. Bishop, III, DDS – Unprofessional conduct, division of fees or agreeing to split or divide fees received for professional services with any person referring a patient, use of any form of public communication containing a false, fraudulent, misleading or deceptive statement or claim, and disciplinary action by another state (Mississippi). Respondent was reprimanded. Dr. Nally made motion to approve reprimand and Dr. Tabor seconded. All members voted in the affirmative.

Luis Salvador Litonjua, DDS – Violation of the statutes and unlicensed practice. Dr. Douglass moved to approve reprimand and Dr. Nally seconded. All members voted in the affirmative.

Paulette J. Temprow, DDS – Violation of the statutes and permitting an unlicensed person to perform services or work which under the provisions of the statutes can be done legally only by persons licensed to practice dentistry. Respondent was reprimanded. Dr. Clark moved to approve reprimand and Ms. Casey seconded. All members voted in the affirmative.

In reference to the last two reprimands discussion took place by the Board regarding schools responsibility in checking credentials.

Mr. Kraemer noted that at some point in the future the Board is looking at putting down some rules about how to get more control over the school and courses. Probably at that point the Board will want to deal with those issues.

Ms. Casey added every dental and dental hygiene program goes through the ADA accreditation process every seven years and correspondence with the ADA and CODA Dental Accreditation would be appropriate if this continues to be a problem.

Ms. Smith stated the Board meeting scheduled March 4th is dedicated to Rule Making Hearing in February and Local Anesthesia Committee.

Ms. Casey moved that we cancel the meeting that's scheduled for March and proposed the Local Anesthesia Committee look at those rules and make recommendation to the Board at the May meeting. Ms. Fox seconded the motion. All members voted in the affirmative.

Ms. Casey also found out the confirmed date for the Southern Regional Testing Agency (SRTA) annual meeting is Friday, August 5-7, 2005, in St. Augustine, Florida.

Certification Course Approvals

Ms. Smith asked if the Board wanted more detailed information submitted next year for those who have submitted a curriculum.

There was discussion by the Board as to what is required and how detailed material should be submitted. Dr. DeArmond thought it would be prudent to review initial applications to teach these courses very thoroughly, and when we have reapplication just to renew their privilege to teach, assurance that the same curriculum is going to be taught should be present.

Ms. Fullilove stated one thing she has found is that the Board's definition of coronal polishing needs to be printed as stated in the Rules. Also, put the definition for coronal polishing in the newsletter again.

Coronal Polishing Courses

Dr. Nally moved to accept course as presented by Chattanooga State Technical Community College, Year 2005 and Dr. Tabor seconded. All members voted in the affirmative.

Upon review Ms. Casey moved to table University of Tennessee Health Science Center and Concorde Career College's course request until tomorrow and Dr. Nally seconded. All members voted in the affirmative.

Sealant Courses

Dr. Nally moved to accept course as presented with more detailed information next year for Chattanooga State Technical Community College and Tennessee Technology Center at Knoxville and Dr. Fitts seconded. All members voted in the affirmative.

Mr. Kraemer wanted to talk to the Board regarding not taking calls or talking to individuals specifically about individuals that are coming before the Board either in a disciplinary context or an applicant. You can't be licensed professionals in this profession without having heard something about the case that's coming up tomorrow. What I want to talk to you about is recusal itself and how you determine if you know too much. It's just a matter of decisions you make internally on any case. You've all had questions what can I consider and what I cannot consider. As a rule of thumb the things that have happened to you, consider the source, the number and the intensity of the feelings they have conveyed to you about the particular issue whatever it is, then you look at that and ask yourself can I still be fair and impartial and base my decision on other things than what these people have told me. You have to look at it outside yourself. So long as you're building a good record that says they're serious deficiencies in this person's character, their ability to practice safely, their techniques that substantiates they should not get a license.

Board members were advised not to take documents with them for review tonight but wait until tomorrow's meeting.

A motion was made to recess the meeting at 1:15 PM until Friday morning, at 9:00 AM.

January 28, 2005

The Board's Vice-President, Marlene S. Fullilove, determined a sufficient number of Board members were in attendance to constitute a quorum. The quorum was determined by the presence of Ms. Fullilove, Dr. Fitts, Ms. Casey, Dr. Clark, Dr. Cook, Dr. Douglass, Dr. DeArmond, Betty Fox, and Dr. Nally. Dr. Tabor arrived 9:20. Mark Wildasin, Consumer Board Member, was not present. Therefore, the meeting of the Tennessee Board of Dentistry was called to order at 9:12 AM.

Office of Investigations Report

Ms. Denise Moran, Director from the Office of Investigations for Health Related Boards presented the report today for Lea Phelps, Disciplinary Coordinator. Ms. Moran introduced Michael Sobowale, new staff paralegal. Ms. Moran went over the report provided in the Board members notebooks. The Office of Investigations has received new complaints of 155 on dentists, 5 on Dental Hygienists, and 38 on Dental Assistants total in the last calendar year. There has been a 48 percent increase since 1999. Ms. Moran stated the increase can probably be attributed to the accessibility to e-mail and website.

Ms. Casey asked about total number under category closed no action? Were those frivolous cases or were those old cases? Ms. Moran explained that the report is a summation by month and it could have been malpractice but may not have gross malpractice, could have been complaint out for investigation not substantiated/substantiated or false or not in violation of the practice act or could be closed pending court action. Those pending court action are waiting on the criminal court to resolve issue. It could be nothing to do with the allegation. We put it in a closed status because it's out of our shop.

Ms. Casey then asked about the next group newly filed complaints by allegation and month received, it lists all the different reasons for filing a complaint, what falls in the other category. What does that mean? Ms. Moran explained there are some other options available to us, because fee specific options. For example, care of services. One major option is it wasn't something that

happened if it's not directly related with a practitioner or the dental hygienist looked like a systemic issue. Our new system will be able to track cases.

Ms. Casey asked about complaints that were filed that were drug related, do those come from concerned dental professionals or do they come from the general population, do you refer those to Dr. Goodrich at Concerned Dental Professionals?

Ms. Moran reported those come from general populous. We have had complaints referred to us by Dr. Goodrich and then we have other concerns. Someone e-mailed me a media release where someone had been arrested on drug diversion or over prescribing and the DEA is taking action. In that instance the federal agent would call and tell me their taking action against the DEA. That would represent two categories drug diversion and over prescribing.

Discussion regarding TennCare's Disciplinary Board is tracking prescription by TennCare/Medicaid providers through the pharmacies as well as DEA, complaints being submitted by pharmacist and prescriptions being tracked by cross referencing doctors to the same patients.

Ms. Moran went over the Summary of Currently Monitored Practitioners Investigation-Discipline Coordination Report which shows costs and civil penalties. Civil penalties collected for 2004 are \$7,410.60 total collected for cost \$9,289.18.

Director's Report

Mr. Paul David reported that he had been in diversity class which is required of all directors and managers by our Commissioner. The diversity class is initiative to improve how and who we hire to create a better and more efficient working environment.

One of our staff member's who was pregnant is back. We have talked in the past about the possibility of gaining an additional staff position, Administrative Assistant Regulatory Board 3 position. If they allow us to have this position, Dea and I are still working on what this individual's going to do.

Legislation started in January, Jerry's in the process of getting prepared. Analysis of bills will be faxed to the President of the Board for them to review for comments. The Department has a new Legislative Liaison, Tom Sharp, and Deputy Legislative Liaison, Paige Edwards.

Health Related Boards is in the process of being audited. I've met with the auditors once and had communication with the auditors. We should have a report of the audit in the next couple of months and it will tell us how they think we're doing applying the Rules of the Board. Any action that needs to be taken will be brought to the Board.

Received calls from licensees with compliments regarding the Newsletter. Dea Smith is solely responsible for the Newsletter and doing a fantastic job with providing information to licensees.

We have 72 applicants for the Coronal Polishing Exam at Meharry Dental School tomorrow.

Next several months we're going to have School Rules Committee, Anesthesia Committee will get together with our newest member Dr. Clark and the Peer Assistance Committee which was appointed at the last meeting in the next couple of months.

Mr. David reported he may be leaving on active duty in October for a year.

Certification Course Approvals

Certification Course in Coronal Polishing

Dr. Douglass moved to accept the amended Concorde Career College application and Dr. Nally seconded. Ms. Fullilove stated they need to be aware of the instructor to student ratio clinical and didactic. All members voted in the affirmative.

Administration and Monitoring Nitrous Oxide Courses

Dr. DeArmond emphasized submitting complete syllabus with detailed information if not been presented previously.

Dr. Nally made motion to accept course applications submitted for Chattanooga State Technical Community College, Meharry Medical College, Professional Development Association, and the University of Tennessee Health Science Center, Memphis, Dr. Clark seconded. All members voted in the affirmative.

Certification Courses in Monitoring Nitrous Oxide

Dr. Nally made motion and Dr. Tabor seconded to accept course applications submitted for Chattanooga State Technical Community College, Professional Development Association, Northeast State Technical Community College, Second District Dental Assistant Society, Tennessee Technology Center at Knoxville, The University of Tennessee Health Science Center, and Volunteer State Community College. All members voted in the affirmative.

Meeting Dates for 2006

Ms. Smith reported the Tennessee Dental Association 2006 meeting dates, January 19th -21st is the workshop and the annual session is May 18-21, 2006.

The Board was asked if there was any objection to the School Rule Committee studying the elimination of the coronal polishing exam.

Ms. Casey moved and Dr. Nally seconded to set dates based on previous dates in the past January 26-28, May 25-26, and September 21-23 for the year 2006 and add as needed. All members voted in the affirmative.

Applicant Interview

Mr. Kraemer advised members to recuse themselves if any of you based on your own personal knowledge or personal feelings or disposition or based on any information or communication you may have received from outside sources other than what you've got before you today and what you hear today have come to a decision on this application prior to conducting this interview I suggest you recuse yourself. There were no Board members to recuse themselves.

Stephen R. Cobble, DDS

Board members reviewed copy of new application, previous orders issued, and correspondence received by the Board in regards to issuing Dr. Cobble a license.

Dr. Paulette Lankford, who received her Doctorate of Pathology from Vanderbilt, undergraduate degree of Medical Technology from Duke University, and an MBA also from Vanderbilt University. She has spent fifty years in the health care field. An associate I have a great deal of respect for who knew she and Dr. Cobble were doing some same types of things in specific area of laboratory medicine and pharmaceuticals suggested that it would be beneficial for her to meet Dr. Cobble. Dr. Cobble was very upfront and honest what had happened in his life. Dr. Lankford has known Dr. Cobble for about five years now. Dr. Lankford stated checked out everything she could on and felt very comfortable from working with him from that point on in this capacity. So I come this afternoon that I believe his heart is in the right place and very well trained.

Dr. DeArmond asked Dr. Lankford to elaborate some on international scope and type of treatment for services provided in the last five years.

Dr. Lankford stated this is still in process what we're attempting to do is go to underserved countries and communities. Dr. Cobble has been the leader in doing this and in getting funding together to do this. It would encompass not just medical care but also other care of people to help them economical a major project. It is a major project that involves a lot of people, institutions and a lot of money because it's putting together self sustaining communities including major health care facilities for those communities.

Dr. Clark asked Dr. Lankford if from an administrative standpoint been working with Dr. Cobble in putting this together. You have not been actively practicing?

Dr. Lankford confirmed she had not been practicing but been in contact with and have been recruiting dentists and others to work with this program.

Dr. Douglass asked the name of the organization? Does it have a tax exempt number? What's the corporate structure?

Dr. Lankford stated the umbrella organization is Quest Fusion. Quest Fusion Life Sciences which is the group I am directly involved with and yes, there is a charter in this country and no, it is not tax exempt because at this point we are trying to put all this together at this point as we will do that we will have a tax exempt subsidiary. At this point we have a number of people overseeing, not a formal board until we can get the organization put in place. This has been a very large endeavor and taken a very long time because it's going to take a lot of resources, not just money. Because it's going to take a lot of resources and commitment from people in order to do this. Dr. Cobble is the leader of Quest Fusion. Obviously in working in as broad a scope as we are, our backgrounds have all been checked out. One of the issues that came up for Dr. Cobble is that his license had been revoked. And that has been a question that has been an issue with some of the organizations we want to work with and it would be helpful for him to be able to resolve that. It's certainly not going to change what we're going to do, but it would help and that's why I'm here.

Dr. Clark asked about partnered with any pharmaceutical companies, obviously you're not chartered yet and if you don't want to speak to that it's fine, Christian organization's, "Save the Children"? Are you all partnering with "Save the Children"; is that your source of resources?

Dr. Lankford stated the source of resources is a number of arenas, we are working with a number of organizations, one of the organizations we're working with is Project Hope which has one of it's major facilities is here in Nashville. I had worked with Dr. Ed Cogan, who was their Executive Director for a number of years in the laboratory services business. So yes, that is one example. We firmly believe that if we can put these together there is great strength, cenergy.

Dr. Clark asked if one of the many partners trying to merge providing indigent care, also is the Native American population.

Dr. Lankford responded in this country and for instance with Native American populations, there is great need there. In my own background I spent a lot of time teaching at Vanderbilt and some other institutions and I believe that is part of the answer is to be able to teach people in solidly grounded programs to help themselves.

Ms. Lee, Office of General Counsel, reported to the Board that Dr. Cobble has been out of practice for almost ten years and the two letters of reference from dentists, one from Arizona and one from Texas, which indicate that he's rusty. Ms. Lee asked the Board to examine if Dr. Cobble has been keeping up with the standards of dentistry? Is he aware of new techniques and technology? Is he able to adequately and appropriately care for the patients? What has he been doing to keep with current dental practices?

Dr. Nally asked Dr. Cobble if he felt the actions taken previously in 1996 by the Board were fair and justified. Dr. Cobble stated he respects the Board's decision. There are differences of opinion, I gave my best defense. The Board did not agree. I'm not here to retry that again. I spent two years of my life trying to do my best to defend. The Board is supreme. The privilege to practice dentistry in this State is given by the citizens of the State of Tennessee. The dentist must self regulate and when we have a member such as myself that threatens that confidence and esteem that dentist have worked so hard for the Board must do whatever is necessary to restore that, including sacrificing a member who appears to have broken many of the rules that make up the Rules of Dentistry in the State of Tennessee.

Dr. Nally asked so you do feel like . . . you agree that you have broken many of the rules, that you did break many of the rules for standard of care?

Dr. Cobble responded that hardly a day that doesn't go by where I don't think of this through the tragedy not only for that young woman but everyone involved my staff, my patients, and my own family. I never had a good relationship with the dentist locally, I blame myself for that, with that there was a lot of misunderstanding, a lot of what was dealt with the Board was innuendoes. The sedation protocol, I blame myself, I went down the wrong path. It was to comfort patients. I wasn't doing it to avoid proper treatment process. Looking back Dr. Nally, there were not rules written. Was I in the gray area? Absolutely. Would I ever do it again? Absolutely not. Was it wrong? I blame myself everyday I didn't have the monitoring equipment. I was below the standards and not doing it to avoid treatment protocols. It's going to be a burden I'll have to carry the rest of my life.

Dr. Nally asked Dr. Cobble if he pictured this would never happen again if given his license back?

Dr. Cobble stated he continued to practice two years after the tragedy and did it without incident. When it occurred I was in shock. A couple of dentists stepped up and tried to help a fallen dentist. We thought we were doing the right thing and provide pain medications to the patients that needed it. What's painted in here is of a horrible person, I'm not that kind of person. Am I to blame for the allowing to happen innuendoes and the gossip and the jealousy? Yes, sir. Was I brash, was I focused on trying to be the best? And sometimes that meant to say I had the best practice. Yes, sir. I'm ten years older, grayer and wiser. That put him in the cross hairs of the dental community and he takes full blame for that. Was he doing it maliciously or with intent? Absolutely not, unintentionally. He stated he was spending time with national and international, I took training in Europe. I was looking at national matters. I sat on some national committees. I wasn't taking care of business at home. And that lead to a lot of hard feelings and misunderstandings.

Dr. Nally stated forgetting the past and history, what actions have you taken to never let this happen again between this lapse of time, continuing education? What have you done specifically?

Dr. Cobble stated that for two years he practiced without a patient complaint or dentist or physician complaint. I did practice within the standards, did practice with very adverse situation. My last month of practice after the Board made decision I had thirty-five new patients. What would I do?

Dr. Nally asked what have you been doing these past few years?

Dr. Cobble stated he needed re-training, chair side skills I'm fairly up to date, and they're some materials I need to get familiar with. I don't want to compromise the hard work of other people. If I can redeem myself, I'd like to. I'm working with non-profits and if the Board would allow me to retrain, hopefully return to practice quietly to build some money for retirement because non-profit don't pay a whole lot of money to retire. I'll work every day to make myself a better person every day.

Dr. Nally made motion to grant Dr. Cobble a license with conditions with completion of a course that is Board approved and appear before the Board annually indefinitely. Dr. Tabor suggested remediation custom designed at University of Tennessee. Motion died due to lack of second.

Mr. Kraemer clarified disciplinary statute gives authority to deny, suspend, revoke, otherwise discipline restrict or condition. The existence of all those terms in one sentence even though it doesn't specifically apply to applicants by implication it does. So you can't deny somebody who's already got a license a license. By implication all the different things you can do within that statute are available as to licensee and applicants, which is Dr. Cobble's status at this point as an applicant. So I think it's appropriate to restrict or condition a license that you issue to an applicant rather than someone who has a license and restrict or condition.

Dr. Clark asked Dr. Cobble if he had received any training as far as practicing received IV conscious sedation, conscious sedation limited conscious sedation, PO training any training along those lines?

Dr. Cobble stated right after the incident within two months he had taken the Alabama IV Conscious Sedation course, four sessions over one year's time.

Board members discussed issues of remediation as well as whether Dr. Cobble has convinced them that he could make moral and ethical judgments regarding patients and show that he was rehabilitated.

Dr. Cook made motion to reject application for licensure and Dr. Douglass seconded. Roll Call Vote: Dr. Tabor, Abstained, Dr. Nally, No, Ms. Fox, Recuse, Dr. Fitts, No, DeArmond, Yes, Dr. Douglass, Yes, Dr. Cook, Yes, Dr. Clark, Yes, Ms. Casey, Yes. Motion to deny application for licensure was carried.

Election of Officers for 2005

Dr. Douglass moved to nominate Dr. DeArmond as President for the Year 2005 and Dr. Clark seconded. All members voted in the affirmative.

Dr. Tabor moved to nominate Dr. Douglass as Vice-President for the Year 2005 and Dr. Clark seconded. All members voted in the affirmative.

Dr. Douglass moved to nominate Dr. Fitts as Secretary for the Year 2005 and Ms. Casey seconded. All members voted in the affirmative.

Motioned to adjourn at 3:10 PM.